

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KYLE A. ROBERTS,

Petitioner,

vs.

PENNY MILBURN,

Respondent.

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Case No. 4:10-cv-1421 SNLJ

MEMORANDUM AND ORDER

This matter is before the Court on the petition for writ of habeas corpus filed by Petitioner Kyle Roberts. I referred this matter to United States Magistrate Judge Nannette Baker for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On August 12, 2013, Judge Baker filed her recommendation that Roberts's habeas petition should be denied (#17).

No formal "objections" to Judge Baker's Report & Recommendation were filed. On August 19, 2013, petitioner filed what he titled a "Motion for Leave" (#18). It is not clear just for what petitioner seeks leave, but the Court will treat it as an objection to the Report & Recommendation.

After careful consideration, I will adopt and sustain the thorough reasoning of Judge Baker and deny petitioner's habeas petition for the reasons stated in the Report and Recommendation dated August 12, 2013. Petitioner's "Motion for Leave" alleges various circumstances that led to his arrest and eventual guilty plea, but petitioner does not address Judge Baker's reasoning or matters pertinent to her analysis. Notably, petitioner states "I admit I should be in jail but for this duration is an absurdity and abomination. I am a non-violent inmate,

the material stolen was not from an upstanding citizen.” Essentially, petitioner argues that he stole a vehicle that had not been purchased with “clean money.” Petitioner’s objections to the Report & Recommendation are without merit.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. *See Tiedeman v. Benson*, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997) (citing *Flieger v. Delo*, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because petitioner has not made such a showing in this case, I will not issue a certificate of appealability

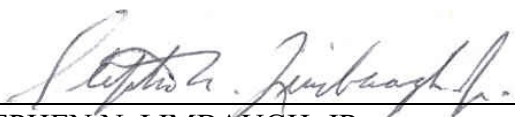
Accordingly,

IT IS HEREBY ORDERED that Judge Baker’s Report and Recommendation filed on August 12, 2013 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner Kyle Roberts’s Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability. A separate Judgment in accordance with this Memorandum and Order is entered this same date

Dated this 29th day of August, 2013.


STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE